

Oct 09 03 04:21p

Stephen Kutner

617-731-3633

p. 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Mauro et al

Serial No.: 09/292,552

Group Art Unit: 2163

Filed: April 15, 1999

Examiner: Romain Jeanty

For: COMPUTER TRADING SYSTEM,
METHOD, AND INTERFACE

Attorney Docket No.: 9628-006

DECLARATION UNDER 37 C.F.R. 1.131

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Charles L. Mauro, Andrew D. Klein, and Walter D. Buist, applicants/inventors in the above-identified patent application, hereby make the following declaration:

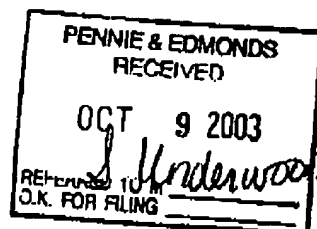
1. Prior to the activities described in paragraphs 2-10 below, we conceived of a method, system, and software for providing a computer interface facilitating a user-to-user security trading service for users communicating over a network with a computer system, including a display with offers to buy and offers to sell, with real-time updating. This activity took place in the United States of America.

2. Prior to the events described in paragraph 6 below, we had already written the computer code to provide the interface and displays described and claimed in the subject application and that would enable information in those displays to be updated without the user requesting any updates. Relevant portions of that code are enclosed herewith as Exhibit 1. The date of Exhibit 1, which has been masked as indicated on page 2 of the Exhibit, is prior to October 1998.

3. The computer code in Exhibit 1 is a module named "MktInfoPane" (a pane being a

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3. The computer code in Exhibit 1 is a module named "MktInfoPane" (a pane being a

part of a window). The content of this module will be recognized by those familiar with Java as code used to display data to a user. This computer code was written in the United States of America.

4. There are two highlighted sections in Exhibit 1. The first section, on the 13th page, begins: "Called when observers in the observable list need to be updated." Those familiar with Java will recognize that the updates occur as needed (i.e., as new information becomes available), and not on request.

5. The second highlighted section of Exhibit 1 begins on the 16th page and identifies the data that the observable supplies when it has been changed. As is evident from the code, the received and displayed data includes bid price, bid quantity, ask price, and ask quantity. Thus, the displayed data includes both offers to buy and offers to sell securities.

6. At least as early as October 1998, the invention was in near-final development. The code for having displayed data updated without the user requesting any updates had already been developed (see Exhibit 1) and the displays described and claimed in the subject application were operable and able to be updated without the user requesting an update.

7. Exhibit 2 is an example of such a display. Exhibit 2 consists of a slide (#64) from a presentation given to management of the assignee (Wit Capital) in October 1998 and created in the United States of America. The date is in the upper left corner of the slide. The comments on slide 64 were prepared for that presentation.

8. The user interface depicted on slide 64 comprises: (a) a display of orders to buy certain securities (in this example, IBM shares) at different prices based on data transmitted over the network by some of the users (see the upper section of the display); and (b) a display of offers to sell the certain securities at different prices based on data transmitted over the network by at least some of the users (see the upper section of the display); wherein at least some displayed data is updated with data transmitted over the network without the user requesting any updates (see the code in Exhibit 1 and the comment at the bottom of the slide: "Data is delivered in continuous updated format so that user does not need to "Call" data at any time. The system automatically updates the users screens continuously.").

9. The display depicted on slide 64 is updated on a real-time basis (that is, updated each time the data changes – see the code in Exhibit 1 and the comment at the bottom of the slide), and at least some data transmitted to the user is user-dependent (see, for example, “Your sell orders” at the upper right of the display, and “Your stks. +87” in the lower left of the display).

10. Minor changes and enhancements were made to the invention from the time of conception to the time the present application was filed, but the basic components and method of operation remained the same as described and claimed in the application from prior to October 1998 until filing.

11. We further state that the above statements are made with the knowledge that willful false statements are punishable by fine and/or imprisonment, under 18 U.S.C. § 1001, and that any such willful false statement may jeopardize the validity or enforceability of patents issuing from this application.

Date _____

Charles L. Mauro

Date _____

Andrew D. Klein

Date _____

Walter D. Buist

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Stephen Kutner

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P. 2

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7. Exhibit 2 is an example of such a display. Exhibit 2 consists of a slide (#64) from a presentation given to management of the assignee (Wit Capital) in October 1998 and created in the United States of America. The date is in the upper left corner of the slide. The comments on slide 64 were prepared for that presentation.

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p. 3

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Date 10/9/03
Charles L. Mauro

Date _____

Andrew D. Klein

Date _____

Walter D. Buist

10/08/2003 16:38 FAX 1 203 321 7278

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002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mauro et al

Serial No.: 09/292,552

Group Art Unit: 2163

Filed: April 15, 1999

Examiner: Romain Jeanty

For: COMPUTER TRADING SYSTEM,
METHOD, AND INTERFACE

Attorney Docket No.: 9628-006

DECLARATION UNDER 37 C.F.R. 1.131Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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SOUND LEGAL DEPT

003

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SOUND LEGAL DEPT

004

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Date _____

Charles L. Mauro

Date _____

Andrew D. Klein

Date 10/9/2003

Walter D. Buist

Express Mail No.: EV335857389US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mauro et al.

Serial No.: 09/292,552

Group Art Unit: 3623

Filed: April 15, 1999

Examiner: Jeanty, Romain

For: **COMPUTER TRADING SYSTEM,
METHOD, AND INTERFACE**

Attorney Docket No.: 9628-006

SUPPLEMENTAL RESPONSE RE RULE 131 DECLARATION

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action mailed April 9, 2003, Applicants submitted an RCE with Amendment on October 9, 2003. That Amendment included a Rule 131 Declaration signed by two of the three inventors; the third inventor's signature had not yet been obtained due to his absence from the country. That signature has now been obtained and the signature page is enclosed.

No fee is believed due with this Supplemental Response. However, if fees are due, please charge such fees to Pennie & Edmonds LLP's Deposit Account No. 16-1150.

Respectfully submitted,

Date: October 13, 2003

Francis E. Morris (47,205) 24,615
for Francis E. Morris (Reg. No.)
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, NY 10036-2811
(212) 790-9090

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Andrew D. Klein

Date _____

Walter D. Buist